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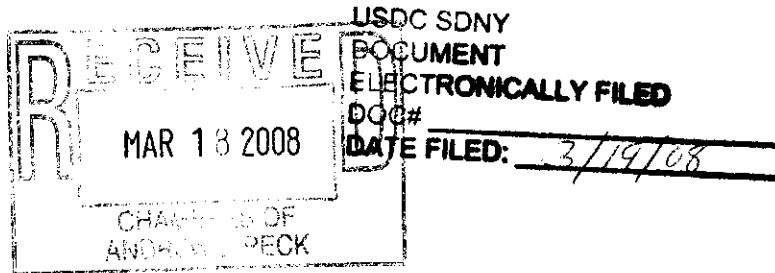
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CHAS. J. GARBARINI (1962-2001)

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 STANLEY J. SCHER  
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March 17, 2008

## MEMO ENDORSED

*At this point, we are in the "designated" category. The court has not been "opened" to the extent of the proposed request is premature. Should the case be opened, we may have your support but it should be made as a matter of course to our firm.*

### VIA HAND DELIVERY

Hon. Andrew J. Peck  
 United States District Court  
 Southern District of New York  
 500 Pearl Street  
 New York, NY 10007

Re: Executive Risk Indemnity, Inc. v. Westport Insurance Company  
 Docket No.: 08 CV 1822 (DLC)(AJP)

Dear Judge Peck

**BY FAX**

SO ORDERED:

Andrew J. Peck  
 United States Magistrate Judge

We write on behalf of defendant Westport Insurance Company with respect to the above-captioned matter. We are in receipt of plaintiff's counsel's letter to the Court of March 14, 2008 which reveals counsel's acquaintance with Your Honor since the mid-1970's when you were both associates at the Paul Weiss firm, as well as your continued dealings with counsel both professionally and personally.

In light of the above, on behalf of our client, we would respectfully request that Your Honor recuse yourself from this action. We would welcome any conference which the Court may deem appropriate to discuss this matter, and thank the Court for its attention to this matter.

Very truly yours,

William G. Scher (WS 2891)

WGS:ak

cc: William B. Pollard, III, Esq. Via E-mail  
 Hon. Denise L. Cote Via Hand Delivery  
 Joyce Noyce, Esq. Via E-mail

# FAX TRANSMITTAL SHEET



**ANDREW J. PECK  
UNITED STATES MAGISTRATE JUDGE  
UNITED STATES DISTRICT COURT**

Southern District of New York  
United States Courthouse  
500 Pearl Street, Room 1370  
New York, N.Y. 10007-1312

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**Dated:** March 19, 2008

**Total Number of Pages:** 2

TO	FAX NUMBER
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## **TRANSCRIPTION:**

**MEMO ENDORSED 3/19/08**

At this point, while I am the "designated" Magistrate Judge, the case has not been "referred" by the District Judge for any purpose. Thus, the recusal request is premature and moot. Should the case be referred to me, you may renew your request – but it should be made as a motion with citation to case law.

**Copy to:** Judge Denise L. Cote